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INDIGENOUS ISSUES

Written statement submitted by North South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[18 February 1998]

GE.98-10759 (E)

Amendments to the draft declaration on the rights of indigenous peoples (IV*)

Chapter V

Participation by indigenous peoples

Article 25 (Amended version of article 19)

In accordance with international instruments, in particular the Declaration adopted at the World Conference on Human Rights in Vienna, indigenous peoples have a genuine right to participate fully at all levels of **the legislative and administrative** decision-making **process** in matters that may affect their rights, lives or destinies, through representatives freely chosen in accordance with their own procedures and institutions **of self-government**.

Article 26 (Amended version of article 22)

States **shall take suitable steps to** bring about an immediate, effective and lasting improvement in economic and social conditions, **especially** in employment, vocational training, housing, sanitation, health, **education** and social security.

Without prejudice to international cooperation, the State authorities shall devote priority attention to the vital needs of the aged, women, young people, children and the disabled.

Article 27 (Amended version of article 23)

By virtue of the principle of self-determination, indigenous peoples have **full authority freely** to determine and develop priorities and strategies for the **effective** exercise of the right to **sustainable** development and **the exploitation of their natural resources**.

Pursuant to the rules on self-government and self-management, aboriginal communities shall have the right and the power to draw up health, housing, education and environmental protection programmes and to undertake the administration of their assets and resources through their own institutions.

Chapter VI

Land, territory and resources

Article 28 (Amended version of article 25)

Indigenous peoples have the right to maintain and strengthen their physical and spiritual relationship of **respect and veneration** for their lands, territories and natural resources, **regarded since time immemorial as the founts of all life and elements of harmony and balance between man and nature.**

In accordance with this customary right, the lands, territories and natural and water resources traditionally possessed, occupied and used by indigenous populations are inalienable, indivisible and subject to neither prescription nor embargo.

Article 29 (Amended version of article 26)

All indigenous peoples have an original right of collective and individual ownership, possession and enjoyment of their lands and territories.

By virtue of that right, indigenous nations shall enjoy permanent sovereignty over their wealth and the renewable and non-renewable natural resources of the soil and the land beneath, coastal pools, marine ice, water resources, flora and fauna, mineral and forestry reserves, the water and the air, and shall enjoy the use thereof in consonance with their vision of the Universe and according to their physical and spiritual needs.

States agree to recognize indigenous laws, customs and usages, land-tenancy systems and institutions, and to pass effective legislation guaranteeing collective and communal ownership based on self-management [by indigenous people] of their own resources and protection against any illicit encroachment, invasion or usurpation of land and natural resources.

Article 30 (Reformulated version of article 27)

Indigenous peoples have the right to restitution of the lands, territory and natural resources which they have traditionally possessed and occupied or used but have been usurped or confiscated from them **under duress based on the doctrine of terra nullius, as "conquered or discovered" land.**

States shall establish appropriate procedures under their national legal systems to settle claims to land, life and dignity and to guarantee fair and equitable compensation for land, with the related assets and accessories, of which [indigenous peoples] have been plundered without their free consent.

The right to compensation shall extend to such damage and injury as has been suffered by farm land as a result of the use of contaminating products or inappropriate technologies. Except where the contending parties arrive at a fair settlement, compensation shall preferably be made by an award of suitable land of a quality and legal status equivalent to or better than those formerly owned.

Article 31 (Reformulated version of article 10)

Indigenous peoples shall not be forcibly removed from their **original** lands and territories. No relocation shall take place without the free and informed consent of the peoples concerned, **except where natural disasters or warfare threaten their lives and security. When the reasons for removal no longer obtain, States must guarantee their return to their original lands and communities, offering fair and equitable compensation to resettled families.**

Article 32 (New provision)

Except as otherwise decided or agreed among the parties concerned, the establishment by transnational corporations of companies or sleeping partnerships on indigenous land for the purpose of exploiting and despoiling their basic and strategic resources shall not be permitted. No one may arrogate ownership, possession or the enjoyment of land and natural resources belonging to indigenous peoples without their prior consent.

Article 33 (New provision on demilitarization)

States agree to prohibit the use of land, territory and natural resources belonging to indigenous peoples for military purposes, for the installation of armaments factories or for the storage of radioactive or toxic waste that might contaminate the environment and threaten the lives of the inhabitants.

Indigenous peoples reserve the right to institute legal proceedings for the purpose of protecting their lands and resources and securing the complete demilitarization of their territories.

Article 34 (New provision on the code of conduct for transnational corporations)

Work by transnational corporations on the execution of macro-economic, agro-industrial, mining and power-generation projects in indigenous territories must conform to such rules and conditions as are considered necessary by the peoples and nations of the host countries.

States are under an obligation to consult indigenous peoples and obtain their free consent before authorizing foreign investment or granting licences to transnational companies for the exploration or exploitation of basic natural resources that may worsen environmental degradation and increase the misery of the peoples affected.

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* The beginning of this statement appears in documents NGO/31, 32 and 33; it continues in document NGO/35.